

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JOSEPH SCOTT WRIGHT,

Petitioner,

v.

ED TROYER,

Respondent.

CASE NO. 3:22-CV-5671-LK-DWC

ORDER FOR SERVICE AND  
ANSWER, § 2254 PETITION

This is a federal habeas action filed under 28 U.S.C. § 2254. Petitioner is currently incarcerated at the Pierce County Jail. The Court, having reviewed petitioner's federal habeas petition, hereby finds and ORDERS as follows:

(1) Petitioner names Pierce County as respondent. Dkt. 6. The proper respondent to a habeas petition is the "person who has custody over [the petitioner]." 28 U.S.C. § 2242; *see also* § 2243; *Brittingham v. United States*, 982 F.2d 378 (9th Cir. 1992); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989). The official having custody of petitioner where he is currently confined – Pierce County Jail – is Pierce County Sheriff Ed Troyer. Accordingly, the Clerk is directed to substitute Pierce County Sheriff Ed Troyer as the respondent in this action. If any party believes

1 that Sheriff Troyer is not the proper respondent, the party shall file a motion to substitute the  
2 correct respondent.

3 (2) The Clerk is directed to issue the Notice of Option of Consent to Magistrate Judge  
4 David W. Christel.

5 (3) The Clerk shall arrange for service by certified mail upon respondent and upon  
6 the Attorney General of the State of Washington and the Pierce County Prosecuting Attorney's  
7 Office copies of the petition, all documents in support thereof, this Order, and the Notice of  
8 Option of Consent. The Clerk shall also direct a copy of this Order, the Notice of Option of  
9 Consent, and the Court's *pro se* instruction sheet to petitioner.

10 (4) Within ***forty-five (45) days*** after such service, respondent(s) shall file and serve an  
11 answer in accordance with Rule 5 of the Rules Governing Section 2254 Cases in United States  
12 District Courts. As part of such answer, respondent(s) shall state whether petitioner has  
13 exhausted available state remedies and whether an evidentiary hearing is necessary.  
14 Respondent(s) shall not file a dispositive motion in place of an answer without first showing  
15 cause as to why an answer is inadequate. Respondent(s) shall file the answer with the Clerk of  
16 the Court and serve a copy of the answer on petitioner.

17 (5) The answer will be treated in accordance with LCR 7. Accordingly, on the face  
18 of the answer, respondent(s) shall note it for consideration on the fourth Friday after filing.  
19 Petitioner may file and serve a response not later than the Monday immediately preceding the  
20 Friday designated for consideration of the matter, and respondent(s) may file and serve a reply  
21 not later than the Friday designated for consideration of the matter.  
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1 (6) Filing by Parties, Generally

2 All attorneys admitted to practice before this Court are required to file documents  
3 electronically via the Court's CM/ECF system. Petitioner shall file all documents electronically.  
4 All filings must indicate in the upper right hand corner the name of the magistrate judge to whom  
5 the document is directed.

6 Any document filed with the Court must be accompanied by proof that it has been served  
7 upon all parties that have entered a notice of appearance in the underlying matter.

8 (7) Motions

9 Any request for court action shall be set forth in a motion, properly filed and served.  
10 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a  
11 part of the motion itself and not in a separate document. The motion shall include in its caption  
12 (immediately below the title of the motion) a designation of the date the motion is to be noted for  
13 consideration on the Court's motion calendar.

14 (8) Direct Communications with District Judge or Magistrate Judge

15 No direct communication is to take place with the District Judge or Magistrate Judge with  
16 regard to this case. All relevant information and papers are to be directed to the Clerk.

17 Dated this 4th day of October, 2022.

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20 David W. Christel  
21 United States Magistrate Judge  
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